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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/724,756	12/02/2003	Jonathan Cass	H310177CONUS	1807

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EXAMINER

MAGEE, CHRISTOPHER R

ART UNIT	PAPER NUMBER
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2653

DATE MAILED: 06/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/724,756

Applicant(s)

CASS, JONATHAN

Examiner

Christopher R. Magee

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 December 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 2 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 2 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Response to Amendment

1. The reply filed 12/16/2004 was applied to the following effect: All relevant objections are withdrawn as being satisfied.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over O'Donnell et al. (hereinafter O'Donnell) (US Des. 433,011) and Golden et al. (hereinafter Golden) (US 3,878,751) further in view of Reisch, "The Art of the Turntablist", *Stereophile*. September 1999. Vol. 22. No. 9. pages 1-3.

- Regarding claim 1, O'Donnell shows a disc jockey turntable with a swing arm and needle (Fig. 1).

O'Donnell does not disclose turntable record turntable record having multiple tracks having at least one scale of notes and/or series of chords of a predetermined musical key, the scale being diatonic, pentatonic, whole tone or one of the modes, the notes and/or chords on each track each lasting for a predetermined time with silence for a predetermined time between adjacent notes and/or chords and the predetermined time for which the notes and/or chords last

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on one track being different from the predetermined times for which the notes and/or chords last on the other tracks.

Golden teaches turntable record 16 having multiple tracks having at least one scale of notes and/or series of chords of a predetermined musical key, the scale being diatonic, pentatonic, whole tone or one of the modes (col. 3, lines 7-45; col. 4, lines 31-34), the notes and/or chords on each track each lasting for a predetermined time with silence for a predetermined time between adjacent notes and/or chords (col. 4, lines 58-63; see Figure 4), and the predetermined time for which the notes and/or chords last on one track being different from the predetermined times for which the notes and/or chords last on the other tracks (col. 8, lines 20-26).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the disc jockey turntable of O'Donnell with a turntable record as taught by Golden.

The rationale is as follows: One of ordinary skill in the art at the time of the invention would have been motivated to provide the disc jockey turntable of O'Donnell with a turntable record as taught by Golden because it is desirable to record information (i.e., music) on a turntable record so that it can be played back at a later time for entertainment purposes.

Further, Golden and O'Donnell do not show mounting the turntable record on the turntable and moving the swing arm to position the needle on an appropriate track and preventing the record from rotating by placing a hand thereon until production of a selected sound is desired.

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With that in mind, Reisch discloses scratchers (i.e., disc jockeys) use their hands to stop, start, and rock the platter or LP at various speeds, to control the sound's attack and envelope emitting from the sound system ("The Art of the Turntablist", *Stereophile*, First paragraph, page 2).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the disc jockey turntable with a turntable record of O'Donnell and Golden in the method as taught by Reisch.

The rationale is as follows: One of ordinary skill in the art at the time of the invention would have been motivated to provide the disc jockey turntable with a turntable record of O'Donnell and Golden in the method as taught by Reisch in order to use the turntable as a musical instrument (Reisch; Fourth paragraph, page 2).

3. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over O'Donnell et al. (hereinafter O'Donnell) (US Des. 433,011) in view of Golden et al. (hereinafter Golden) (US 3,878,751).

- Regarding claim 2, O'Donnell shows a disc jockey turntable with a swing arm and needle (Fig. 1).

O'Donnell does not disclose turntable record having multiple tracks having at least one scale of notes and/or series of chords of a predetermined musical key, the scale being diatonic, pentatonic, whole tone or one of the modes, the notes and/or chords on each track each lasting for a predetermined time with silence for a predetermined time between adjacent notes and/or chords and the predetermined time for which the notes and/or chords last

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on one track being different from the predetermined times for which the notes and/or chords last on the other tracks.

Golden teaches turntable record 16 having multiple tracks having at least one scale of notes and/or series of chords of a predetermined musical key, the scale being diatonic, pentatonic, whole tone or one of the modes (col. 3, lines 7-45; col. 4, lines 31-34), the notes and/or chords on each track each lasting for a predetermined time with silence for a predetermined time between adjacent notes and/or chords (col. 4, lines 58-63; see Figure 4), and the predetermined time for which the notes and/or chords last on one track being different from the predetermined times for which the notes and/or chords last on the other tracks (col. 8, lines 20-26).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the disc jockey turntable of O'Donnell with a turntable record as taught by Golden.

The rationale is as follows: One of ordinary skill in the art at the time of the invention would have been motivated to provide the disc jockey turntable of O'Donnell with a turntable record as taught by Golden because it is desirable to record information (i.e., music) on a turntable record so that it can be played back at a later time for entertainment purposes.

Response to Arguments

4. Applicant's arguments filed on 12/16/2004 have been fully considered but they are not persuasive.

The Applicant asserts on page 1 of the Remarks:

“ Golden does not teach a turntable record;” and “Golden is concerned with a musical instrument which is completely different from the musical instrument with which the applicant's invention is concerned. In this respect, the examiner will note that Reisch refers to a turntable as a musical instrument when used as described in Reisch, see for example page 2 of Reisch, fourth paragraph. It would therefore not be proper to attempt to combine the teaching of Golden with the disclosures in O'Donnell and Reisch.”

In response to applicant's argument that Golden et al. is nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992).

In this case, Golden et al. teach a turntable record 16 having multiple tracks having at least one scale of notes and/or series of chords of a predetermined musical key, the scale being diatonic, pentatonic, whole tone or one of the modes (col. 3, lines 7-45; col. 4, lines 31-34), the notes and/or chords on each track each lasting for a predetermined time with silence for a predetermined time between adjacent notes and/or chords (col. 4, lines 58-63; see Figure 4), and the predetermined time for which the notes and/or chords last on one track being different from the predetermined times for which the notes and/or chords last on the other tracks (col. 8, lines 20-26). One of ordinary skill in the art at the time of the invention would have been motivated to provide the disc jockey turntable of O'Donnell with a turntable record as taught by Golden

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because it is desirable to record information (i.e., music) on a turntable record so that it can be played back at a later time for entertainment purposes.

Therefore, the rejection of claims 1 and 2 is upheld.

Conclusion

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher R. Magee whose telephone number is (571) 272-7592. The examiner can normally be reached on M-F, 8: 00 am-5: 30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Korzuch can be reached on (571) 272-7589. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Christopher R. Magee
Patent Examiner
Art Unit 2653

May 31, 2005



GEORGE J. LETSCHER
PRIMARY EXAMINER